IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 12TH NOVEMBER 2007 / 81ST KARTHIKA 1929

WP(C).No. 33278 of 2007(J)
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CMA.77/2007 of I ADDL. DISTRICT COURT, TRIVANDRUM
OS.35/2007 of SUB COURT, NEDUMANGAD
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PETITIONERs:
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1. Stanley, S/o. Danam, aged 65 years, residing at House No.16/28, Mancha, Nedumangad,Thiruvanthapuram.

2. Christudas, S/o. Danam, aged 74 years, residing at House No.16/28, Mancha, Nedumangad,Thiruvananthapuram

3. Vimala Baby, aged 53 years,residing at House No.16/28, Mancha, Nedumangad,Thiruvananthapuram

BY ADV. SRI.R.S.KALKURA

RESPONDENTS:
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1. The Authorized Officer, Central Bank of India,Regional Office, P.B.No.98,Gopal Buildings, Thyvila Road, Thiruvananthapuram- 695 001.

2. Central Bank of India, represented by Senior Branch Manager, Peroorkada Branch, Thiruvananthapuram 795 005.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12/11/2007 , THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**M.N.Krishnan, J.**

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**W.P(C).No.33278 of 2007**

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**Dated this the 12th day of November, 2007.**

**JUDGMENT**

This Writ Petition is preferred for a direction to hold that Exts.P8 and P9 notices are hit by Section 36 of SARFAESI Act and for a further direction to the Additional District Court, Thiruvananthapuram to hear and dispose of C.M.A.No.77 of 2007. There is representation for the Bank as well.

2. The contention of the writ petitioners before the courts is to the effect that the amount that was attempted to be realised is a debt which is already barred by limitation and there is prohibition under Section 36 of the SARFAESI Act from recovering the amount utilising the provisions of that Act. The trial court held that civil court has no jurisdiction and dismissed the application. It is against that decision, C.M.A.No.77 of 2007 is filed which is pending before the Additional District Court, Thiruvananthapuram.

3. Since the question involved in the C.M.A. relates to a pure question of law regarding the jurisdiction of the civil court to entertain a case, it is desirable that a direction is given to the said court to dispose of the C.M.A. at the earliest within a period of one month from today and direct the trial court not to proceed with the trial till the C.M.A. is disposed of by the appellate court. I am not going into the legality or other aspects involved in this case and the only direction given is to the District Judge to dispose of C.M.A.No.77 of 2007 and further direction to the Munsiff not to proceed with the trial till C.M.A.No.77 of 2007 is disposed of.

Writ Petition is disposed of accordingly.

M.N.Krishnan,
Judge.

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